ALBERTA OMBUDSMAN

45th Annual Report

Focused on Fairness

April 1, 2011 through March 31, 2012

ALBERTA OMBUDSMAN
Focused on Fairness

October 2012

The Honourable Gene Zwozdesky
Speaker of the Legislative Assembly
325 Legislature Building
10800 - 97 Avenue NW
Edmonton, AB T5K 2B6

Dear Mr. Speaker:

The Office of the Ombudsman is pleased to present its 45th Annual Report to you and through you, to the Legislative Assembly.

The Report has been prepared in accordance with Section 28(1) of the *Ombudsman Act* and covers the activities of the Office of the Ombudsman for the period April 1, 2011 through March 31, 2012.

Respectfully,

Peter Hourihan, B.Admin, LL.B
Alberta Ombudsman

/jlm
Enclosure

VISION, MISSION AND VALUES

ALBERTA OMBUDSMAN

Focused on Fairness

VISION

The Alberta Ombudsman is the recognized leader for independent investigation, promotion and support of administrative fairness.

MISSION

The Alberta Ombudsman independently and impartially promotes high standards of administrative fairness through investigations, recommendations for change and education.

VALUES

To obtain our Vision and deliver our Mission, our Values are fundamental to all our interactions and communications.

We Value:

Fairness
Competency
Respect
Integrity
Equity and
Confidentiality

We also value a working environment that fosters personal and professional growth and development, collaboration and teamwork, and innovation and creativity.

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MESSAGE FROM THE OMBUDSMAN

I have taken the opportunity to review our past 44 years to better understand the development of the role of the Ombudsman. History provides a perspective.

INTRODUCTION

I am pleased to introduce the 45th Annual Report of the Alberta Ombudsman for the 2011/2012 fiscal year. This is an exciting privilege for me as Alberta's 8th Ombudsman since our inception in 1967. I was appointed in October 2011, following in the shadows of seven highly dedicated and passionate Ombudsman who accomplished many things over the past 44 years. Their collective efforts have placed me in the enviable yet challenging position to ensure their work is furthered progressively. It is my intention and obligation to seek opportunities to enhance the value of the Ombudsman to Albertans and their government.

Since my arrival, I have continued in the direction that has been set. I have also begun to develop a perspective and to contemplate what approaches and activities I might engage in to further this Office and ensure we stay relevant, productive and helpful in our goal of seeking and ensuring fairness. This annual report will provide an overview of what has taken place during our fiscal year of 2011/2012.

I have taken the opportunity to review our past 44 years to better understand the development of the role of the Ombudsman. History provides a perspective. So does the current situation and environment as I have also commenced in speaking with many individuals, including Deputy Ministers and equivalents who offer insights and perspective and who are fundamental in serving Albertans and government.

In 1966 there was significant dialogue as to whether or not an Ombudsman was necessary for Alberta. Some were of the view that it was not:

> *A full-time ombudsman would be just one more civil servant. Not that we've got anything against civil servants, but bureaucratic wrongs aren't righted by appointment of another bureaucrat.*
>
> *A full-time ombudsman would only be getting in the way, coming between the people and those who should be slaying the bureaucratic dragons.*
>
> (Medicine Hat News, January 1966 Editorial)

Many, however, were of the view an Ombudsman was definitely a move in the right direction:

> *An Ombudsman performs two services: he corrects specific injustices, and he helps forestall future injustices by tightening up the civil service where too much security from scrutiny had made it flabby and arrogant.*
>
> (Edmonton Journal, February 1966 by John J. Barr)

If the rules under which democracy functions are allowed to become so numerous and unwieldy that an individual feels too insignificant to question or complain, the base of democracy is weakened because there is no personal involvement. And without involvement there can be no interest and little respect. The establishment of an ombudsman and a standing committee to keep watch on discretionary legislation could be an extremely smooth piece of the democratic machine and should be pushed until it becomes a reality.

(Calgary Albertan, October 1966 Editorial)

Fortunately, Alberta did proceed and implement a full-time Ombudsman, the first in North America. The goal was service for Albertans. Clearly in my discussions with Deputy Ministers and other individuals who are Chairs of Boards and Commissions and from scanning government and individuals, the goal has not fundamentally changed: the Ombudsman is firmly entrenched in Alberta and the mandate is to ensure the provincial government provides quality service that is fair and accountable to Albertans. The relationship between the government of Alberta and the Alberta Ombudsman's office has always been one where there has been a cooperative and progressive approach. The government has always had the goal of providing excellent service and the Ombudsman has sought to ensure this is the case, assisting in adjusting those areas where bureaucracy has not worked as planned. Indeed, as the February 7, 2012 Speech from the Throne stated "*it is Albertans who will always remain the central focus of this government*" and this government will "*find new and effective ways to reach out to vulnerable Albertans and make them a part of the province's success story.*" The Ombudsman will continue to ensure this is a goal of government and a product for Albertans. We will do so collaboratively where we can and we will do so more publicly where necessary and where expected.

The Alberta Ombudsman's office is moving to a next phase in our development. One where individual complaints will continue to be diligently and thoroughly investigated and where our focus remains on fairness and accountability by government. I have just recently formed a team of investigators who will focus on own motion investigations that delve into more systemic issues. They will be looking at any number of criteria to determine whether an own motion is the proper approach. We will also be embarking on a more interactive and proactive awareness campaign to ensure Albertans are aware of our Office and where our role is clear so we may further our goals. This will include a focus in minority communities where many of our new Albertans can benefit from a better awareness of what is available to them at a time when clearer understanding is needed. We will be exploring technology to determine what can best fit our needs and our ability to manage what we implement. We want to ensure we are a responsive Office which is secure and informative.

The Alberta Ombudsman's office is moving to a next phase in our development. One where individual complaints will continue to be diligently and thoroughly investigated and where our focus remains on fairness and accountability by government.

Our philosophy remains consistent and we will continue to work in a cooperative way with government authorities, mindful that fair treatment is key and pushing where necessary to ensure it is achieved.

This includes younger generations who communicate in many ways and at incredible speeds and those people who prefer to communicate with less technology. And, we are going to focus on the employees within the Office in terms of development and knowledge to better serve complainants and government authorities. This is highly important as matters are increasingly more complex and interconnected between authorities as government seeks to find an optimal balance for effective management.

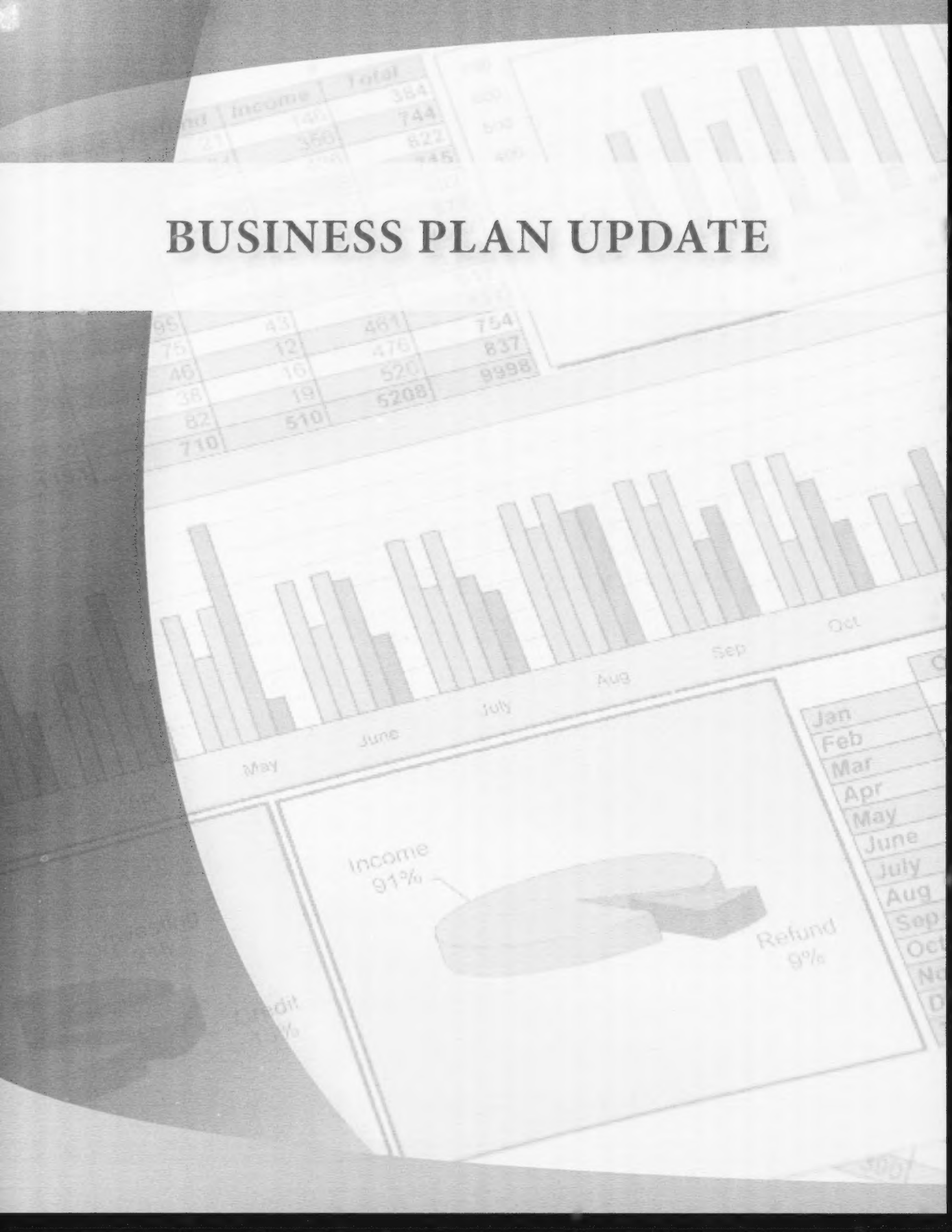
We will be looking critically at the information we gather and the statistics we rely on. Our goal is to do more critical analysis and be better positioned to provide credible and useful feedback. For example, we have been experiencing a decline in the number of calls we have been receiving over the past 3-4 years. While there are likely a number of reasons this is occurring, such as: people resolving their issues; a more responsive government; Ombudsman services improving matters; or people merely deciding not to call, this is not sufficiently developed and we want to have a stronger analysis of what is occurring and a better understanding so we can seek a better delivery of our services.

We have commenced to build a renewed, comprehensive and effective Strategic Business Plan. This will help us achieve our goals. It will serve as a feedback mechanism to ensure change and improvement continues as we journey forward. Similar to the past several years, the Plan sets out our Vision, Mission and Values and provides for strong accountability. Our Strategic Business Plan will provide a snapshot of our activities, successes and challenges and offer both an internal and external perspective on our value to Albertans.

This Strategic Business Plan will cover a three year period, enabling us to have short, medium and longer term goals and objectives. We seek to be innovative and change as required, yet obtain consistency to the extent possible. Our Plan helps us achieve both simultaneously. It also offers a clear picture of where we have been focusing and where we plan to go.

Much of our renewed focus is currently under development. This annual report follows the same format as the past recent ones, reporting on the activities that have taken place and providing a scan of recent cases, some statistical and financial information. In the following year, you can expect to see the changes we are implementing. Our philosophy remains consistent and we will continue to work in a cooperative way with government authorities, mindful that fair treatment is key and pushing where necessary to ensure it is achieved. We will strive not to become what some feared in 1966; we will not be bureaucratic, rather we will seek effective and timely responses and provide value added recommendations that correct past injustices and minimize future ones.

BUSINESS PLAN UPDATE



BUSINESS PLAN UPDATE

Our 2007/08 – 2010/11 Strategic Business Plan was a tool we used for guidance and future direction. Because of the Ombudsman and Deputy Ombudsman transition during 2011/12, this plan was not updated for 2011/12. A new Strategic Business Plan for 2012/13 – 2015/16 has been drafted and focuses on critical analysis of our service delivery.

We identified four core objectives to accomplish our goals. They are:

- manage the workload in an efficient and effective manner;
- excel in investigations;
- support workplace wellness and staff development; and
- enhance the knowledge and understanding of the role of the Ombudsman.

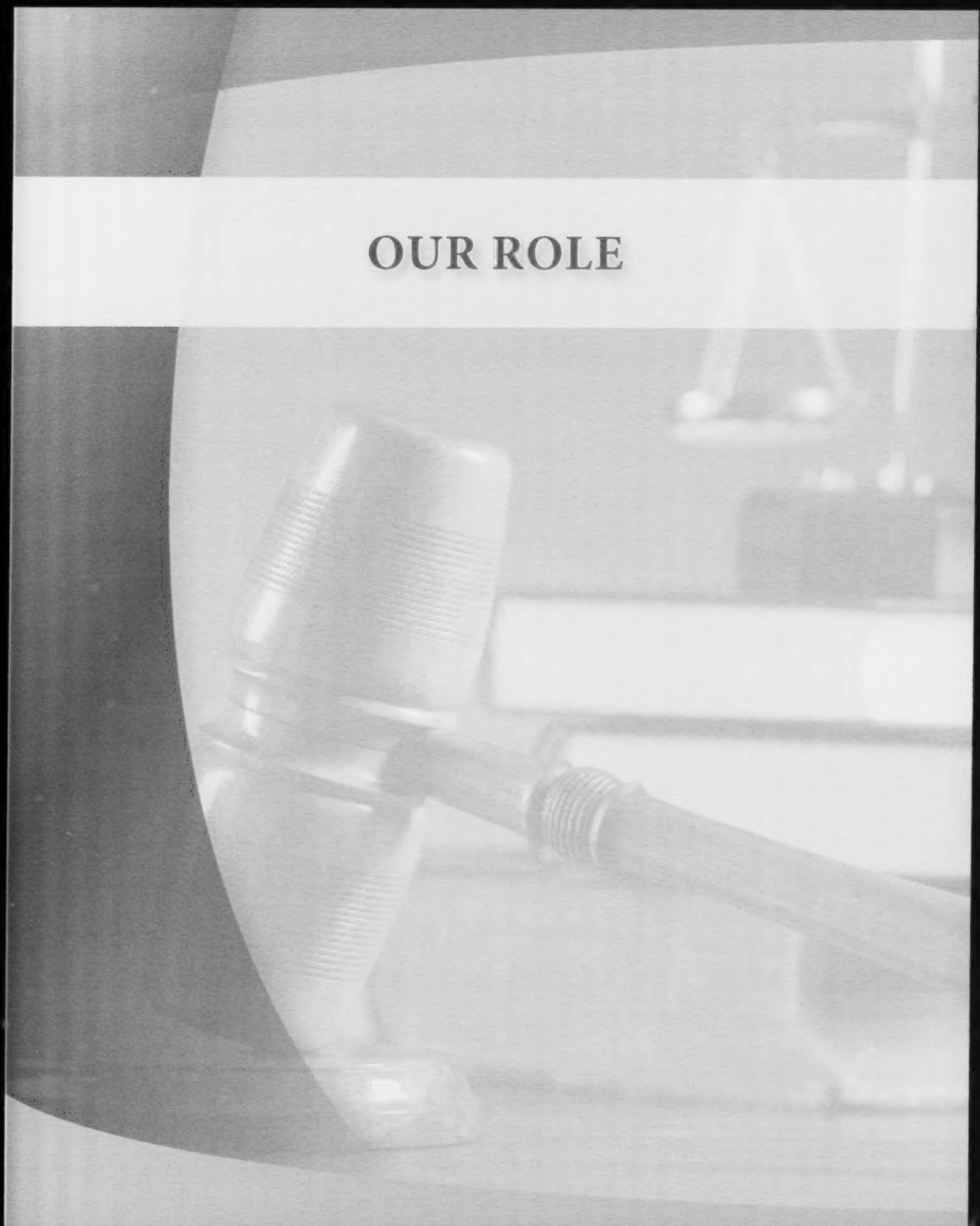
The following tables provide oral and written response targets and results:

Target	2011/12 Actual	2010/11 Actual
90% of email inquiries responded to within 24 hours	100% response within 24 hours	100% response within 24 hours
90% of telephone inquiries responded to within 4 hours	95% within 2 hours 100% within 4 hours	95% within 2 hours 100% within 4 hours

It is important to note people calling into our Office are often frustrated with government bureaucracy, and appreciate speaking to a live person in our Office on a timely basis.

File Closure – All Written Files Target	2011/12 Actual	2010/11 Actual
75% of files completed within 90 days	85%	81%
80% of files completed within 180 days	88%	84%
90% of files completed within 1 year	94%	91%
100% of files completed within 2 years	98%	99%

The 2012/13 – 2015/16 Strategic Business Plan includes a goal of shortening the time it takes to close a file taking into consideration the complex issues in many files.



OUR ROLE

OUR ROLE

The Alberta Ombudsman has the authority to investigate decisions, actions and recommendations made by a jurisdictional authority. Individuals who have concerns or complaints about the fairness of administrative actions by Alberta government departments, agencies, boards, commissions, designated professional organizations and the patient concerns resolution process of Alberta Health Services may bring these matters to the Ombudsman. Contact may be made by a phone call to the Office, through a letter, through the online complaint form located on our website or in person.

If the initial contact is made by phone, the call will be directed to an intake officer who determines the caller's issues and whether the concern is with an agency jurisdictional to the Ombudsman. If the concern is not jurisdictional, the caller is referred to the appropriate source for information or assistance.

APPEAL MECHANISMS

The caller may have a concern regarding the actions of a jurisdictional body but may not have used all available appeal processes. The *Ombudsman Act* requires complainants to pursue resolution through these processes before seeking help from the Ombudsman. If all appeal processes are not exhausted, the intake officer will provide information on options and processes available to the caller.

Callers with a jurisdictional complaint who have completed the appeal processes may be able to resolve their complaint through Informal Resolution. For example, the caller may be an inmate who brought a concern to the correctional centre director but has not received a response. Rather than ask the inmate to make a formal written complaint to the Ombudsman, the intake officer may contact the director, provide information and inquire about the status of the inmate's concern. The intake officer may determine the director's response was sent but not received or the call may prompt a more timely response to the inmate. Whatever the outcome, such informal action by our Office is an attempt to successfully resolve the issue in a timely fashion.

For all other oral complaints, the intake officer explains the process of making a written complaint by online complaint form or by letter. The caller is advised of the process that occurs once the Ombudsman receives a written complaint.

COMPLAINT ANALYSIS

The *Ombudsman Act* states all complaints to the Ombudsman shall be in writing. A complaints analyst reviews written complaints. The analyst will consider whether:

- the complaint is about a department or agency under the authority of the *Ombudsman Act*;
- the complainant has exhausted all avenues of appeal;
- the complaint is a matter before the courts;
- the complainant has been directly affected by the action or decision being complained about;
- the complainant has third party representation; and
- the complainant has come forward in a timely manner.

The analyst will also identify the issues within the complaint. Anonymous complaints are not acted upon.

If the Ombudsman accepts the complaint, there are two options for resolution: an Alternative Complaint Resolution may be attempted or the matter may proceed to a formal investigation. In both cases, the file is assigned to an investigator.

ALTERNATIVE COMPLAINT RESOLUTION

The Alternative Complaint Resolution (ACR) process is a less formal process for handling complaints. It may be pursued for the following complaints:

- those which may have a reasonable chance of resolution within 21 days;
- those which involve fewer or less complex issues and are specific to the complainant; and
- where a less formal complaint resolution would be appropriate.

In order to proceed with ACR, the process must be agreed to by both the complainant and the complained-about department. After the issues are clarified with the complainant, a department representative is contacted and possible avenues of resolution are discussed. Examples of potential resolutions include the provision of additional information exchanged between parties or negotiation of further actions by either party. The Ombudsman's investigator facilitates the complaint resolution but does not advocate for the interests of either party. If the matter is successfully resolved, the file is closed. If ACR is unsuccessful, the matter is reconsidered for formal investigation.

FORMAL INVESTIGATION

A formal investigation begins with correspondence to the complainant and the Deputy Minister responsible for the department or the head of the agency. If the complaint involves actions of more than one department, files are opened with each department. The correspondence outlines the parameters of the issues for investigation and the letter to the department usually includes a copy of the complaint letter or the details from the online complaint form. The department is asked to provide a written response, which should include all relevant documentation, policy and legislation. The investigator reviews this response and file materials relevant to the complaint and interviews appropriate department staff members to determine if there is additional information related to the identified issues. The investigator also interviews the complainant to obtain any additional information or clarification of the issues. The investigator may interview anyone believed to have information relevant to the investigation and request copies of all pertinent documents that the complainant or others may have in their possession.

Once all information is gathered, the investigator analyzes the information based on the principles of administrative fairness and prepares an Investigation Report. This report identifies the issues investigated and provides background for the complaint. Information relevant to each issue is described and analyzed and conclusions are explained. Based on the analysis and conclusions, the investigator recommends a resolution for each issue to the Ombudsman.

ADMINISTRATIVE UNFAIRNESS

If administrative unfairness is identified, the issue is supported. The issue is not supported if the actions or decision did not demonstrate administrative unfairness and were consistent with legislation, policy and the principles of administrative fairness. For administratively unfair issues, the Ombudsman recommends a remedy which must be consistent with the nature of the unfairness. For example, if a decision was written in an administratively unfair manner, the Ombudsman may recommend the decision be rewritten or amended to rectify the deficiencies. If a hearing was conducted in an administratively unfair manner, the Ombudsman may recommend the decision be set aside and a new hearing held.

INVESTIGATION CONCLUSION

At the conclusion of the investigation, the Ombudsman reports his findings on unsupported complaints to the complainant and the department or agency investigated. The decision identifies each issue investigated and the findings or conclusions.

On supported complaints, the Ombudsman shares his findings and recommendations with the Deputy Minister of the department or agency head and gives that person the opportunity to respond. When the Ombudsman makes a recommendation, he relies on the power of persuasion as he does not have the authority to require an action. There are occasions when the Deputy Minister or agency head agrees with the findings of administrative unfairness but will offer a different option for resolution. The recommendation for final resolution will be one which is acceptable to both the Ombudsman and the Deputy Minister or agency head. Once agreement is reached on a resolution, the conclusion is shared with the complainant. On the very rare occasion when no agreement is reached between the Ombudsman and the Deputy Minister or agency head, the Ombudsman has the power to report to the Minister, the Lieutenant Governor in Council and ultimately to the Legislature.

Most recommendations for resolution result in an action that directly impacts the complainant. Other recommendations correct a systemic issue that affects more than one person and improves the process or system within a department or agency.

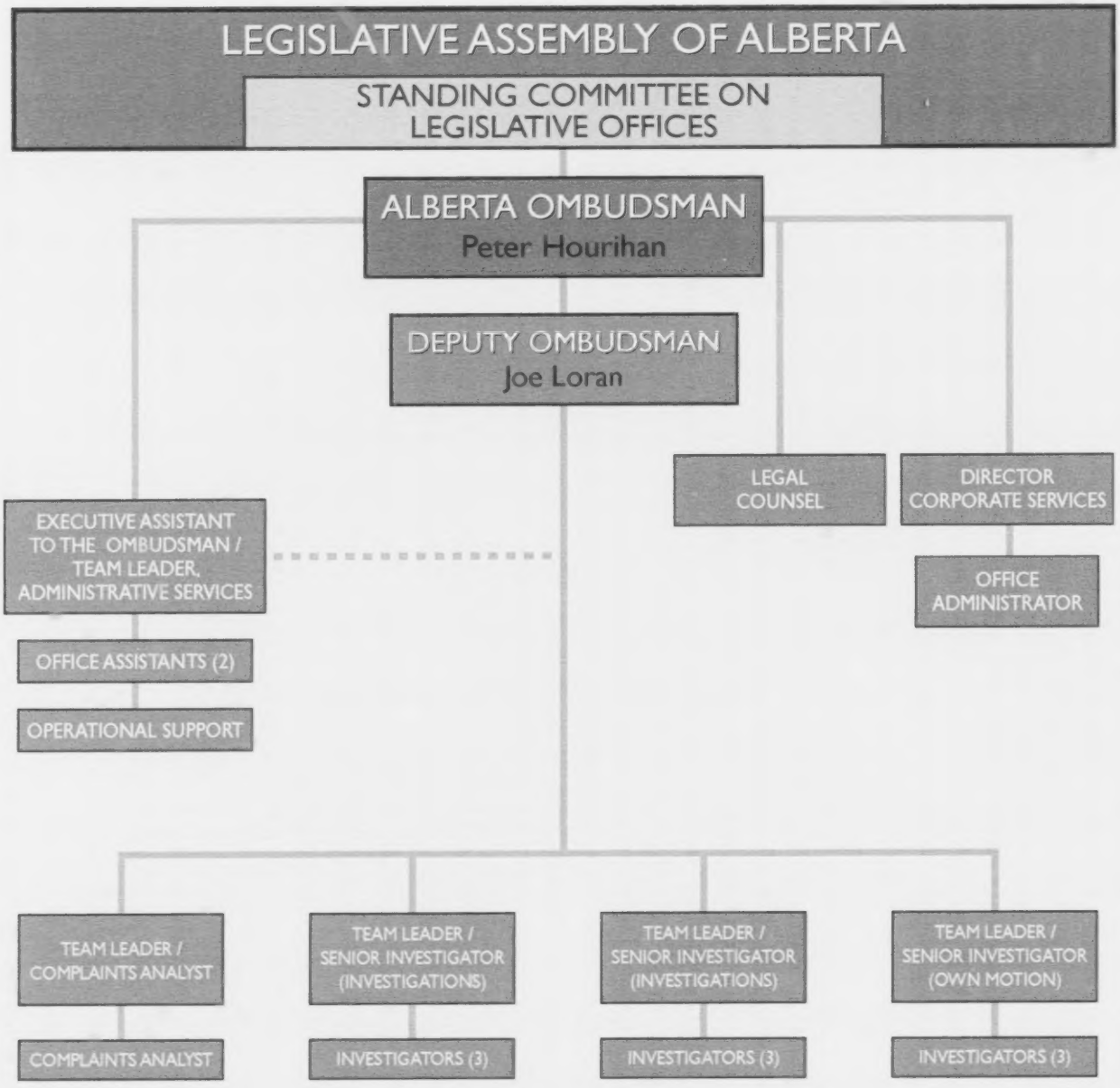
OWN MOTION INVESTIGATIONS

The Ombudsman has an additional investigative power to conduct an own motion investigation, initiated at his own discretion. For example, an own motion investigation may result from a number of questions about the administrative fairness of a program that have come to the Ombudsman's attention through various investigations. When commencing an own motion investigation, the Ombudsman advises the Minister and the public and reports publicly on his findings upon conclusion.

COMMITTEE-REFERRED OR MINISTERIALLY-ORDERED INVESTIGATIONS

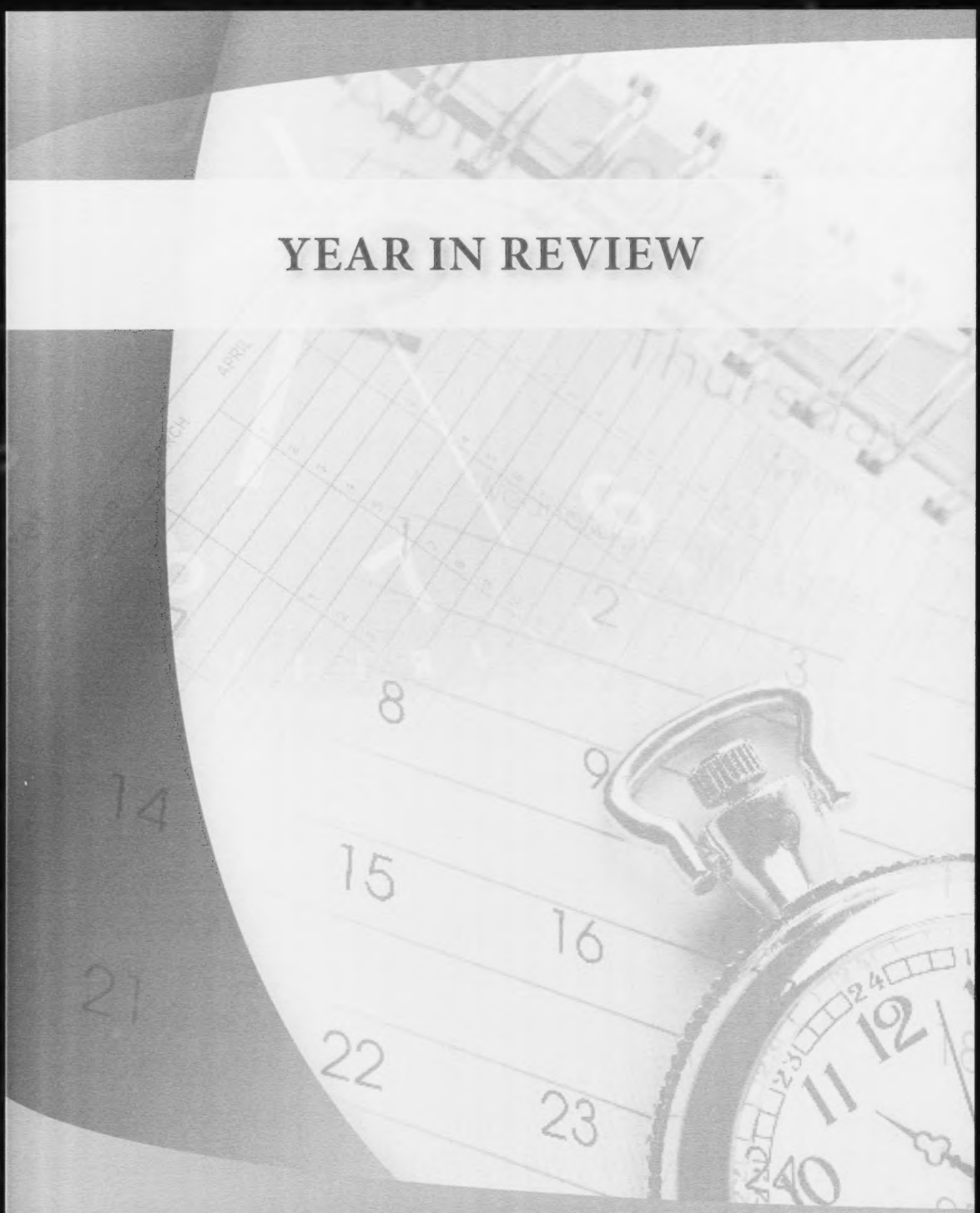
The *Ombudsman Act* contains two other ways in which the Ombudsman may commence an investigation: a committee of the Legislative Assembly may refer a matter to the Ombudsman for investigation or a Minister of the Crown may order the Ombudsman to conduct an investigation.

ORGANIZATIONAL CHART



As at May 2012

YEAR IN REVIEW



YEAR IN REVIEW

April 1, 2011 through March 31, 2012

Of the 885 written complaints received, the most common authorities by volume of complaints are:

Alberta Human Services
7.1%

Alberta Solicitor General and Ministry of Public Security
6.4%

Workers' Compensation Board
6.2%

Alberta Justice
6.2%

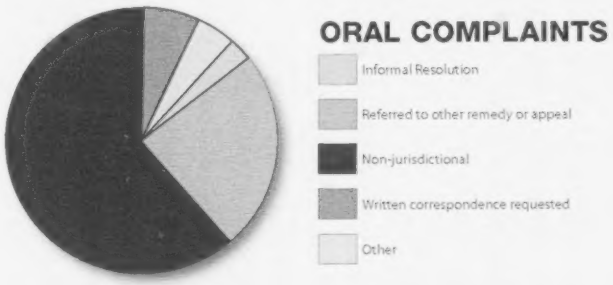
Appeals Commission for Alberta Workers' Compensation
3.3%

Patient Concerns - Alberta Health Services
2.6%

Alberta Employment and Immigration
2.4%

Alberta Children and Youth Services
1.9%

3,709 Oral complaints received (down 8.4% from 2010/11)
107 Informal Resolution *
897 Referred to other remedy or appeal
2,283 Non-jurisdictional
247 Written correspondence requested
175 Other



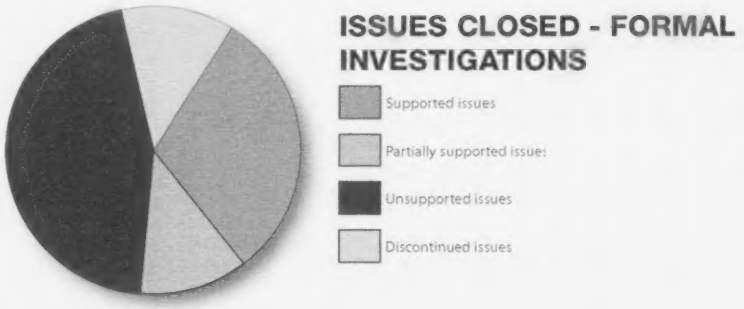
885 Written complaints received (up 14.9% from 2010/11)
153 New formal investigations
33 New Alternative Complaint Resolution (ACR) files
699 Declined for investigation (referred to other remedy or non-jurisdictional)

*2.9% of oral complaints received were resolved in discussion with the authority without requiring a formal investigation.

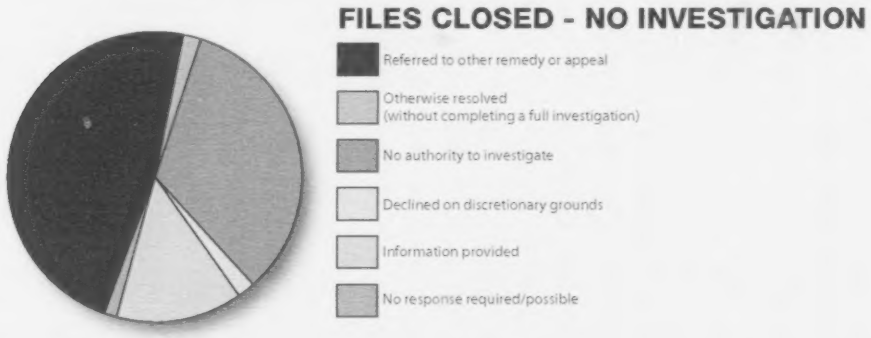
236 Files carried forward from previous years

837 Files closed as of March 31, 2012

134 Formal investigations completed containing 192 issues
- 59 Supported issues
- 23 Partially supported issues
- 86 Unsupported issues
- 24 Discontinued issues



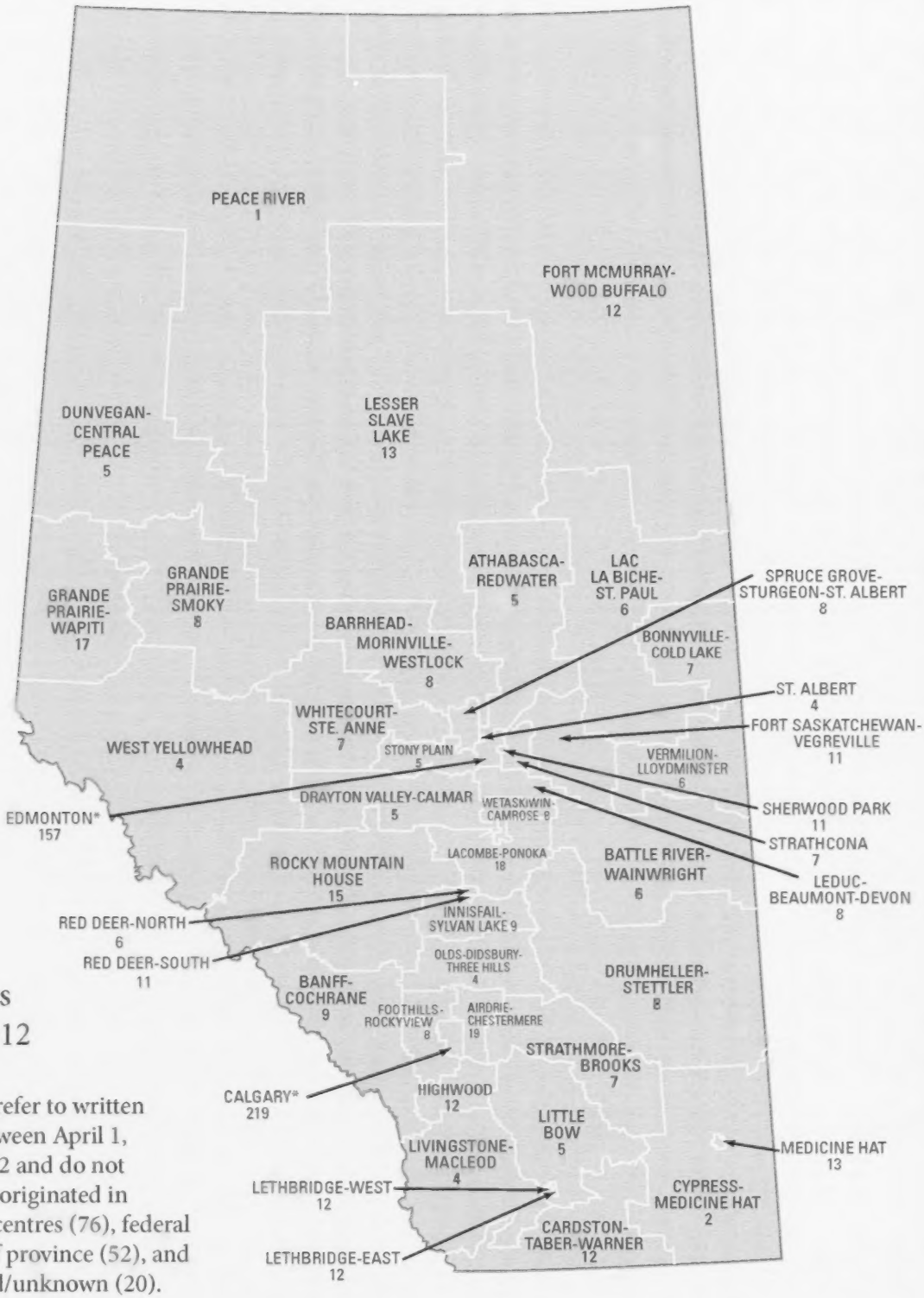
671 No investigation initiated
- 319 Referred to other remedy or appeal
- 13 Otherwise resolved (without completing a full investigation)
- 225 No authority to investigate
- 13 Declined on discretionary grounds
- 93 Information provided
- 8 No response required/possible


FILES CLOSED - NO INVESTIGATION
Referred to other remedy or appeal
Otherwise resolved (without completing a full investigation)
No authority to investigate
Declined on discretionary grounds
Information provided
No response required/possible

32 ACR files closed

284 Files carried forward to 2012/13

COMPLAINTS BY ELECTORAL DIVISION



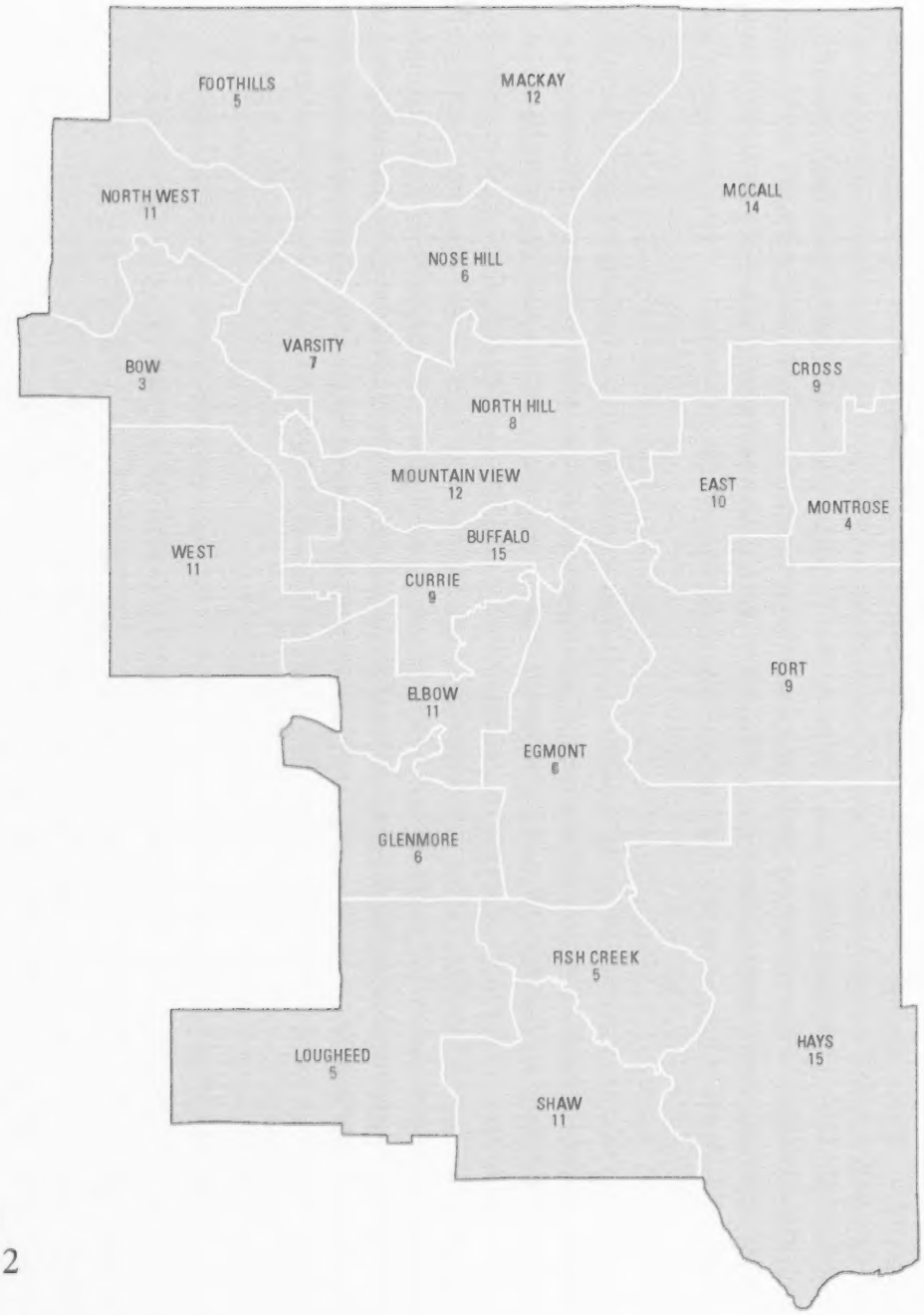
PROVINCIAL ELECTORAL DIVISIONS

Electoral Divisions as at March 31, 2012

The figures on the map refer to written complaints received between April 1, 2011 and March 31, 2012 and do not include complaints that originated in provincial correctional centres (76), federal penitentiaries (3), out of province (52), and no city/address specified/unknown (20).

*Denotes multiple electoral divisions in region (see following pages for details).

COMPLAINTS BY CALGARY ELECTORAL DIVISION



CALGARY ELECTORAL DIVISIONS

Electoral Divisions
as at March 31, 2012

The figures on the map refer to written complaints received between April 1, 2011 and March 31, 2012 and do not include complaints that are no city/address specified/unknown (15).

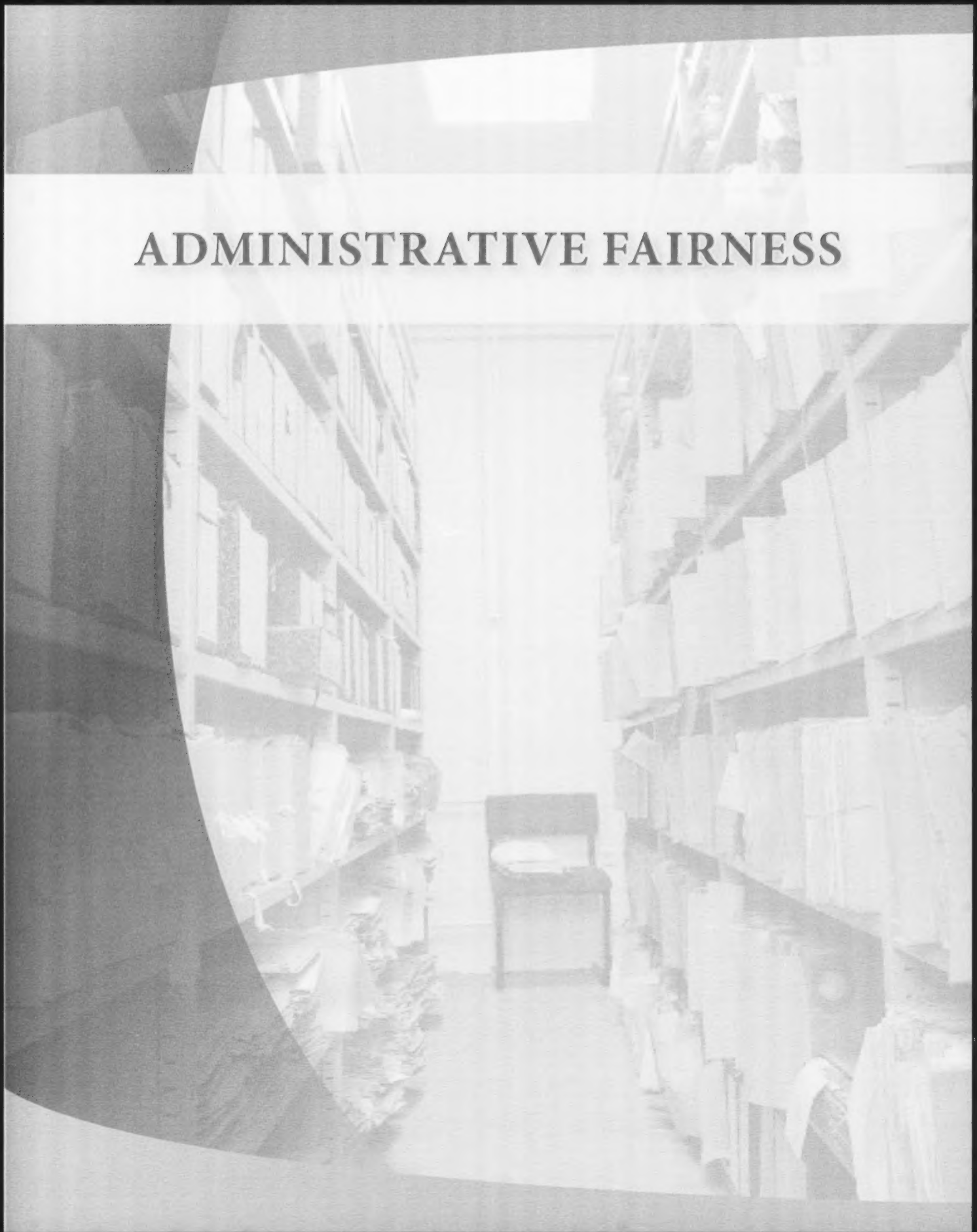
COMPLAINTS BY EDMONTON ELECTORAL DIVISION

EDMONTON ELECTORAL DIVISIONS

Electoral Divisions
as at March 31, 2012

The figures on the map refer to written complaints received between April 1, 2011 and March 31, 2012 and do not include complaints that are no city/address specified/unknown (15).

ADMINISTRATIVE FAIRNESS



ADMINISTRATIVE FAIRNESS GUIDELINES

Through the investigative process, we determine whether the actions or decisions that resulted in a complaint are administratively fair. We determine fairness by applying the following guidelines to each case.

1. ***Chain of legislative authority.*** What legislation created the authority or power to make a decision and to which decision-maker was the power granted?

2. ***Duty of fairness.*** The courts require decision-making that affects the rights of individuals must follow a fair process. This duty of fairness means there must be procedural fairness in decision-making. We look for greater procedural protection if there is:
   - no right of appeal established within the statute;
   - no further appeal mechanism within the department, agency, board or professional body; and
   - a substantial effect on the individual's rights (i.e., loss of financial benefits).

3. ***Participation rights.*** Was the complainant given a full and fair opportunity to present the case to the decision-maker? Was the case against the person fully disclosed to the person?

4. ***Adequate reasons.*** There must be a rational connection between the evidence presented and the conclusions reached by the decision-maker. The decision-maker must identify and clearly communicate the decision and the reasons for the decision.

5. ***Reasonable apprehension of bias.*** We look for impartiality and independence of the decision-maker including relationships to all parties in the matter, both internally and externally.

6. ***Legitimate expectation.*** Did the decision-maker fail to honour a commitment or follow regular procedures?

7. ***Exercising discretionary power.*** We look at how discretion is established in the Act, Regulation, Policy, Guidelines, etc. Discretionary decisions are reviewed to determine if there is evidence of bad faith, improper purpose or irrelevant considerations.

8. ***Was the decision reasonable?*** A reasonable decision does not equate to whether the decision is wrong or whether a different conclusion could have been reached. A reasonable decision shows how the decision-maker considered and assessed the arguments and evidence.

ADMINISTRATIVE FAIRNESS CASE SUMMARIES
(all complainant names have been changed)

This section explains how the administrative fairness principles are applied by the Alberta Ombudsman and illustrates examples of cases where recommendations by the Ombudsman resulted in improved processes.

1. CHAIN OF LEGISLATIVE AUTHORITY

When commencing an investigation, we examine the relevant legislation since all powers of government departments, agencies, boards, commissions, designated professional organizations and the patient concerns resolution process of Alberta Health Services are derived from statute. We determine whether the legislation has delegated decision-making powers to a legislated entity or an individual. A statute may grant the organization the ability to make regulations and grant decision-making power or it may grant the decision-maker the authority to exercise discretion based on parameters set out in regulation or in directives or policy.

If there are no specific powers in the legislation, we look at the *Government Organization Act*. This Act establishes the general authority of a department or agency to create programs, delegate powers, enter into agreements and establish boards or tribunals.

Once legislative authority is determined, we determine whether the decision-maker had the authority or understood he or she had the authority to make the decision and whether it was made in a manner consistent with that required in legislation, regulation or policy. We also confirm the relied upon legislation, regulation or policy was valid at the time of the decision.

Case summary: College of Physicians and Surgeons of Alberta

Stewart's complaint about his doctor was investigated by the Complaints Director for the **College of Physicians and Surgeons of Alberta**. The complaint was dismissed on the basis his treatment was "appropriate" without reference to specific elements of "unprofessional conduct" as defined by Section 1(pp) of the *Health Professions Act*. Under Section 62(2) of the Act, the investigator is authorized to investigate matters that "could give rise to a finding of unprofessional conduct." The decision was reviewed by the Complaint Review Committee for the College which stated it found "insufficient evidence of unprofessional conduct"; however, it did not relate any of its findings or reasons to Section 1(pp) of the Act.

Though few complainants relate their complaint(s) to Section 1(pp) of the Act, it is important the Complaints Director and the Committee make that relationship. The Ombudsman recommended in the future, dismissals of complaints consider which element of "unprofessional

2011/12 KUDOS

Kevin Young, Director of the Appeals Secretariat, Alberta Human Services, is to be commended for recognizing the importance of a re-hearing versus an addendum to resolve a matter with significant ramifications.

Pat Brooks, Patient Concerns Officer, Alberta Health Services, is working diligently to improve the entire patient concerns resolution process.

All the **Deputy Ministers** in the Alberta Government have endorsed the notion of a collaborative working relationship with our Office and are seeking opportunities to better serve Albertans.

conduct" applies and relate the findings and reasons to those elements. In the event no element of "unprofessional conduct" can be identified that might lead to an investigation, the Complaints Director may dismiss the complaint before investigation under Section 55(1)(f) of the Act. In Stewart's case, the Ombudsman's investigation concluded the Committee considered the evidence and gave fair reasons for refusing some information. It also gave fair reasons for denying an adjournment.

2. DUTY OF FAIRNESS

The courts require decisions affecting the rights of individuals must follow a fair process. Decisions made by administrative bodies often have a more immediate and profound impact on people's lives than a court decision. Flowing from these decisions is a duty to act fairly and to make procedurally fair decisions. It is the Ombudsman's legislative mandate to investigate complaints about the administrative fairness of decisions made by Alberta government departments, agencies, boards, commissions, designated professional organizations and the patient concerns resolution process of Alberta Health Services.

The duty of fairness is flexible and variable, depending on the statute involved and the nature of the decision. The degree of fairness required is dependent on the effect of the decision on the rights of the individual and whether legislation established an avenue of appeal. If there is no established right of appeal, or if the individual has appealed to the final level of decision-making, the requirement for procedural protection, or fairness, is greater.

Procedures used by decision-makers vary depending on several factors, including:

- the nature of the decision;
- the level of legal sophistication and expertise of the decision-makers; and
- whether this is the last level of consideration.

For example, a government employee's decision in response to a citizen's request may be communicated differently from the decision of an administrative tribunal. The **Maintenance Enforcement Program** frequently communicates with clients through email due to the high volume of interactions with clients. An email response in some situations is deemed sufficient and administratively fair. In other situations, email is inadequate and therefore unfair.

Greater procedural protection is required when there is a substantial effect on an individual's rights such as loss of financial benefits, license cancellation, disciplinary suspension or the right to continue in a profession or employment. Professional regulatory bodies under the *Health Professions Act* have stringent discipline procedures for their members set out in legislation and regulation. Administrative fairness requires strict adherence to the rules.

A decision of the **Appeals Commission for Alberta Workers' Compensation** is an example of a final avenue of appeal where the decision has a significant impact on the individual worker. The Appeal Rules published by the Appeals Commission include rules such as notice and disclosure, recording of proceedings and requirements of written decisions. The Appeals Commission meets the duty of fairness by following the established rules.

Case summary: Alberta Human Services

Amanda complained the **Assured Income for the Severely Handicapped (AISH)** program unfairly denied her funds to pay a portion of her telephone bill after she was victimized by an alleged telephone fraud. Certain personal benefit decisions can be appealed to the Citizens' Appeal Panel, but there are certain personal benefit decisions where the Minister has decision-making authority. That authority has been delegated to senior managers and because it is a Ministerial delegation, the position of the department is there is no appeal available. The Ombudsman's investigation learned it was a senior manager who made the decision to deny what was labeled as "emergency funds." Those types of decisions regarding emergency funds are considered to be appealable decisions; however, when Amanda filed an appeal application, the supervisor reviewing the appeal on behalf of the department argued AISH does not normally cover telephone costs unless there is a medical necessity. That type of decision is considered to be a non-appealable decision.

The end result was a lack of clarity regarding the categorization of Amanda's request as well as the legislative authority under which the department made its decision to deny the request. The Ombudsman recommended the department issue a new decision and the department consider consulting with its legal counsel to determine what reviews are available of a senior manager's decision when he or she is acting under the delegation of the Minister.

The department revised its forms and processes as a result of this investigation. Amanda received a new decision which once again denied her request; however, she was provided clear information this was a decision she could appeal to the Citizens' Appeal Panel.

Case summary: Alberta Pensions Services Corporation

The issue for Mitchell was the decision of the **Local Authorities Pension Plan** to deny his request to transfer the commuted value of his employment pension into a locked-in retirement account. This decision was heard by an appeal committee which recommended to the Board of Trustees the requested transfer be denied. The Board accepted the recommendation and denied the transfer. The Ombudsman's investigation found the appeal committee members who heard Mitchell's presentation were

not the same members who made the recommendation to the Board of Trustees. Also, inadequate records were kept of the presentations made to the appeal committee and inadequate reasons were provided in the recommendation of the appeal committee to the Board of Trustees. The decision letter from the Board of Trustees did not contain many elements of a fair decision, such as: identifying the decision-makers; listing and applying relevant legislation; and providing an analysis of the weight given to the arguments.

The processes being used by the Local Authorities Pension Plan and the appeal committee were featured in the Ombudsman's 2010/2011 Annual Report. Mitchell's case had been decided under the process identified in that Annual Report. As a result of the investigation, a number of changes were made to the appeal committee process and the Ombudsman recommended Mitchell's be reheard under the new process. The recommendation was accepted and a rehearing was offered to Mitchell.

3. PARTICIPATION RIGHTS

There are two elements to participation rights. First, a person is entitled to a full and fair opportunity to present his or her case to the decision-maker. A government department, agency, board, commission, designated professional organization or the patient concerns resolution process of Alberta Health Services demonstrates this by requesting information from the person and ensuring sufficient time for the person to respond. A tribunal invites all parties to provide written submissions or present orally at a hearing, ensuring there is sufficient notice of the hearing. The tribunal provides a meaningful opportunity to be heard when all parties have sufficient time to state their position.

Citizens' Appeal Panels protect participation rights in a tribunal process. Persons who disagree with decisions about certain financial benefits have the right to appeal those decisions to the Panel. Appellants are notified in writing of the hearing time, date and place. At the hearing, appellants may make a presentation, either orally or in writing, and may make a final statement prior to the hearing's conclusion.

Another example is the **Alberta Human Rights Commission** process. During the Commission's investigative process, information obtained during interviews is transcribed and submitted to the interviewee. The person may then correct errors or omissions before decisions are made about the issue under investigation.

The second element of participation rights is a person's entitlement to full disclosure of the case. This includes access to any report or information that a decision-maker has relied upon to make a decision.

Case summary: Alberta Human Services

The decision to deny Christine's request for retroactive income support benefits was upheld by the **Citizens' Appeal Panel**. In its decision, the Panel made reference to information about a repayment agreement Christine signed almost two years earlier. The Panel did not have the repayment agreement in front of it when it made its decision and failed to identify the source of that information. Christine also did not have a copy of the agreement during the hearing and had no opportunity to speak to it. This lack of full disclosure meant there was no opportunity to verify the authenticity of the information. The Ombudsman's recommendation for an addendum was accepted by the Panel.

4. ADEQUATE REASONS

Canadian courts imposed a common law obligation on administrative decision-makers to provide adequate written reasons. It is not enough to outline the evidence and arguments made by the parties. There must be a rational connection drawn between the evidence and the conclusions, including a clear explanation of how the relevant legislation, regulation or policy was applied. Decision-makers should not only explain what evidence was relied on to make the decision, but also what evidence was rejected and why it was rejected. A well-written decision must address the major arguments raised by all parties. Generally, it is only necessary to refer explicitly to evidence directly relevant to the issue. Decision-makers are not required to address every point or piece of evidence but they must address the major evidence they relied on or rejected to reach their decision.

The decision and reasons must be clearly communicated in language easily understood by a reasonably informed person. The decision should answer the question, "Why did the decision-maker make that decision?"

Case summary: Alberta Human Services

Gail complained about a **Citizens' Appeal Panel** decision which confirmed a decision made by the Assured Income for the Severely Handicapped (AISH) program she was in a relationship of economic interdependence with her estranged husband which meant his income and assets would be included in determining her ongoing eligibility for AISH benefits. The Ombudsman's investigation found the Panel did not indicate in its decision how it applied the legislation to the evidence reviewed nor did the Panel explain how this couple met the definition of a relationship of interdependence. The Ombudsman recommended an addendum to provide a more complete explanation of the application of the legislation and the resulting decision. Upon receipt of the recommendation, the Director of the Appeals Secretariat reviewed the matter and determined the matter should be reheard in order to clarify

the issue of interdependence versus co-habiting relationship in this particular case. Gail subsequently notified our Office to advise a new Panel hearing was being scheduled.

Case summary: Alberta Veterinary Medical Association

Two brothers, Kyle and Jason, received a decision from the Committee of Council (COC) of the **Alberta Veterinary Medical Association (AB. VMA)** which upheld a decision of the Complaint Review Committee (CRC) to dismiss the brothers' complaint about a veterinarian's examination of a horse. The Ombudsman's investigation found the reasons given by both the COC and the CRC to dismiss the complaint were inadequate. In view of the lack of reasons provided by both the CRC and COC, including the failure to distribute the investigation report to the parties prior to the hearing, the Ombudsman made a number of recommendations and observations.

After a series of letters and discussions, the AB.VMA agreed to have the complaint reheard at the COC level and ensure more comprehensive reasons are given for decisions. While the Ombudsman found no bias, he did recommend the roles of the decision-makers be clarified and separated to avoid the perception of bias. The other key recommendation accepted by the AB.VMA was it will now share the response of the investigated member with the complainant prior to decisions being made.

5. REASONABLE APPREHENSION OF BIAS

Decision-makers must demonstrate impartiality and independence in making decisions. "Impartial" applies to the state of mind or attitude of the decision-maker so there is no bias, either real or perceived. Impartial decisions are based on objective criteria. To be "independent", the decision-maker must be free from interference by the executive and legislative branches of government and from other external forces such as business interests, corporate interests or other pressure groups.

A widely-quoted excerpt from a 1978 decision of the Supreme Court of Canada established the test for reasonable apprehension of bias:

> What would an informed person, viewing the matter realistically and practically ... conclude? Would he think that it is more likely than not that (the decision-maker), whether consciously or unconsciously, would not decide fairly?

To be impartial and independent, decision-makers should declare real or perceived conflicts of interest. The appearance of impartiality is necessary to maintain confidence in the decision-making process. In cases where it

appears decision-makers are not objective even when they feel they could make an unbiased and fair decision, they are obligated to disclose the potential conflict or excuse themselves from the case.

Decision-makers should guard against forming opinions about the person or the case before reviewing the documentation and hearing from all parties. An appearance of bias might result from the behavior of a decision-maker at a hearing, such as repeatedly silencing a party or behaving in an overly aggressive or sarcastic manner. If the decision-maker was involved in the case prior to the hearing, it may appear to a reasonable person the decision-maker has prejudged the matter.

Case summary: Alberta Justice and Solicitor General

> Because Judy was a wage employee, she could only go to Level 1 of the grievance process when her employment with then-**Alberta Solicitor General and Public Security** was terminated. Senior management staff are designated to hear grievances such as this one and in this case, the designated officer signed the decision letter in his capacity as a senior manager rather than in his capacity as a designated officer. The Ombudsman's investigation identified a number of other issues which did not result in formal recommendations, but were presented to the department as observations about best practices. Those observations included adherence to internal grievance policy, recording of submissions made at the grievance hearing, identification of hearing participants, and enhanced explanations of conclusions. The Ombudsman also encouraged training be implemented for the designated officers hearing these grievances. The department responded by commencing the implementation of a new grievance framework based on the observations made by the Ombudsman.

6. LEGITIMATE EXPECTATION

The principle that regular practices or promises of the administrative decision-maker should be taken into account forms the basis of legitimate expectation. A person has a legitimate expectation when an application form is submitted, the recipient will actually process the application. When a person challenges a decision, it is important and administratively fair for the decision-maker to honor promises made about following procedure, unless the decision-maker provides a high level of procedural rights in a different form. Failing to meet legitimate expectations in decision-making may be as simple as an official failing to follow through after agreeing to take action or write a decision letter; it becomes more complex if the authority fails to follow what may be considered a regular procedure, therefore treating an individual in an unfair manner.

When an inmate in a **correctional centre** is charged with an institutional violation, he or she receives a Notice to Offender/Inmate of Disciplinary Hearing Procedure stating procedural expectations for the disciplinary hearing, such as:

> The hearing adjudicator will ask you questions relating to the information they have received and you shall direct your replies to the hearing adjudicator. If you have questions you wish to ask any witnesses that are called at the hearing, you may direct them to the hearing adjudicator who will then ask the witness the question. The hearing adjudicator will allow you to present relevant evidence on your own behalf and it may be checked by the hearing adjudicator to verify its accuracy.

These are procedural expectations for both parties and Ombudsman investigations examine whether those legitimate expectations are met.

Case summary: Farmers' Advocate Office

Until 2003, the *Farm Implement Act* protected farmers who consigned equipment for sale. Changes to the Act removed the protection, but that was not understood by the Farm Implement Inspector who worked for the **Farmers' Advocate Office**. Based on his previous experience and his understanding of the changes to the legislation, he assumed consigned equipment was still covered. The complainant, Jason, stated he was informed his consigned equipment was covered and he made a business decision not to remove this equipment from a dealer, even when he suspected the dealer might be experiencing financial problems. The dealer went bankrupt and it was only when a hearing was held before the Farm Implement Board that it was clear to all consigned equipment was not covered and the farmers with consigned equipment were not protected. As a result of the Ombudsman's findings, the Farmers' Advocate agreed to seek legal advice to ensure his staff understands future changes to the legislation. The Ombudsman closed the file without insisting on an apology. The findings and recommendations did not result in compensation to the farmer because the Ombudsman cannot recommend a remedy beyond the provisions of legislation.

Case summary: ATB Financial

ATB Financial has established a Complaint Resolution Process where customers who have concerns can elevate their concerns from the local level to the Customer Relations Manager in head office. Cody asked representatives of ATB a number of questions about the calculation of MasterCard bonus rewards and was unable to obtain verification of how the rewards are calculated. Cody attempted to elevate his

complaint through ATB's Complaint Resolution Process but was unable to determine what level of the process he reached in his attempt to seek answers to his questions and a resolution to his complaint. On more than one occasion, he had been referred back to ATB's website to resubmit his complaint. The Ombudsman's investigation found Cody received conflicting information from a number of staff not only about his complaint but where he was in the Complaint Resolution Process. The investigation also found the Ombudsman was being referred to in ATB's website material as being the fourth level in ATB's Complaint Resolution Process.

The Ombudsman recommended ATB send a letter to Cody providing clarification of ATB's role in relation to the credit card company and provide clear information to him about the steps he needs to take with the credit card company regarding the rewards program. This complaint was one of a series of complaints received by the Ombudsman about the Complaint Resolution Process. The Ombudsman encouraged ATB to develop a more formalized investigation reporting process and improve its documentation of steps taken at various levels to resolve complaints. It was also noted during the investigation the Ombudsman is independent of ATB and is not the fourth level of the Complaint Resolution Process.

7. DISCRETIONARY POWERS

Although decision-makers enjoy considerable deference which allows them to make their own decisions and determine the scope of their jurisdiction, discretion must still be exercised within a reasonable interpretation of legislation. We examine how the statute, regulation or policy establishes discretion. We review or question discretionary decisions on limited grounds such as evidence of bad faith, discretion used for an improper purpose or the use of irrelevant considerations. There may be more than one way to decide a matter, but whatever the decision, it must be made properly.

It is important to ensure the discretion is not incongruent with the power established in legislation and the person making the decision has the proper authority to exercise discretion. When exercising discretionary decision-making powers, the decision-maker must proceed only under his own legislation, must make a decision and must undertake only what he or she is authorized to carry out.

In many statutes governing department actions, senior executives or an appeal panel may exercise discretionary power. The Ombudsman will comment when he finds errors occurred or when an inappropriate interpretation or use of the delegated discretionary power is identified.

Case summary: Workers' Compensation Board

ABC Company was denied the opportunity to request a review of the surcharge information being used to calculate the premiums charged on the grounds the surcharge information had been indicated on every annual premium rate statement which meant there had been numerous opportunities in the past to seek a review of the calculation. The **Dispute Resolution and Decision Review Body (DRDRB)** is the first level of review of any decision made by staff of the Workers' Compensation Board. Legislation states requests for review be submitted within a year from the date of the decision; however, the legislation states there is discretion to extend the time limitation period. The Ombudsman's investigation identified a number of concerns with the information considered in the decision-making process and recommended WCB give the company another opportunity to request an extension of the one year time limitation period. The WCB accepted the Ombudsman's recommendation and forwarded the matter to the DRDRB which subsequently waived the limitation period.

Case summary: Workers' Compensation Board

David had a sizable overpayment of compensation benefits levied against him by the **Workers' Compensation Board**. The Ombudsman's investigation found WCB policy governing the forgiveness of overpayments unfairly restricted the discretion allowed for in the *Workers' Compensation Act*. The Policy stated the WCB could only forgive overpayments of under $100 while the Act made no such restriction. The WCB accepted the Ombudsman's recommendation the policy be changed and also agreed to review the calculation of David's overpayment based on the revised policy.

8. WAS THE DECISION REASONABLE?

A reasonable decision should indicate how the decision-maker considered and assessed arguments. To assess a decision's reasonableness, it is important to relate how the evidence was weighed and give reasons about how the decision-maker considered and assessed the arguments and evidence. A reasonable decision is made within the statutory mandate and is grounded in the evidence presented.

The Ombudsman is not a substitute decision-maker; rather, he assesses the reasonableness of decisions based on available evidence. When the Ombudsman concludes a decision was reasonable, he is not making a determination whether the decision was right or wrong or whether a different decision was possible. If the decision is not reasonably based on arguments and evidence presented and accepted by the decision-maker, the Ombudsman may find the decision unreasonable. In the majority of cases, decisions are not found to be unreasonable although there may be administratively unfair components of the decision.

Case summary: ATB Financial

Allan complained **ATB Financial** misplaced funds he and his wife deposited into a bank account for their son over twenty years ago. The Ombudsman's investigation focused on whether Allan received an administratively fair response from ATB to his complaint about the missing funds. The investigation found ATB researched the bank account and were able to locate some documentation; however, due to the number of years that had lapsed and the records retention policies in place, there was minimal documentation available. A bank account ledger was subsequently discovered which outlined the transactions for a two year period following the opening of the bank account. Those transactions demonstrated the account was drawn down to zero dollars in the two year period. ATB chose not to share the information with Allan. The Ombudsman's recommendation the information be shared with Allan was accepted by ATB. The Ombudsman also pointed out ATB would be well advised to develop policy governing the process for investigating allegations of missing funds.

ALTERNATIVE COMPLAINT RESOLUTION

The Ombudsman's Alternative Complaint Resolution (ACR) continues to provide a process for the quick resolution of matters that would otherwise be assigned for formal investigation. The feedback from authorities who have been involved in the ACR process has been generally positive and the ACR process remains an effective resolution for certain complaints.

Case summary: Alberta Solicitor General and Public Security

An inmate complained he was denied time out of his cell to make telephone calls to his lawyer and to have a shower while being held in segregation. He submitted request forms about these issues without any resolution. The Director of the **correctional centre** confirmed inmates in segregation are locked up 23 hours per day; however, there are entitlements to telephone access and shower facilities. The Director agreed to provide a written response to the inmate and also confirmed that he issued directives reminding staff about processes related to time out of cells, showers and telephone access.

Case summary: Patient Concerns, Alberta Health Services

On September 13, 2010, the delivery of correctional health care services in the provincial correctional centres was transferred to Alberta Health Services. In the previous reporting year, our Office received a number of telephone calls from inmates who were unaware of the avenues of review available to them regarding health care services. We were instrumental in providing information about accessing the patient concerns resolution process of Alberta Health Services.

In the most recent reporting year, inmate access to the process remained problematic, and four of the inmate complaints that were referred to the ACR process dealt with inmates being unable to access the toll free telephone number for the **Patient Concerns Officer**. Discussions between our Office, the correctional services branch of Alberta Justice and Solicitor General and the Patient Concerns Officer, resulted in a new province wide toll free telephone number being established by Alberta Health Services for inmates. Since the resolution of these complaints, our Office is no longer receiving complaints about inmates being unable to access the office of the Patient Concerns Officer.

Case summary: Alberta Seniors

Alberta Aids to Daily Living (AADL) paid for the costs of a specialized compression sleeve for a patient who had undergone extensive surgery, then required further treatment months later for scar tissue. However, AADL did not cover the costs of specialized dressings used immediately following the surgery on the grounds the AADL mandate does not include acute post-surgical issues. The patient had not received a formal decision letter from AADL and did not understand the AADL mandate. An Ombudsman investigator spoke with the Director at AADL who agreed to send a letter providing a full and complete explanation for the decision.

Case summary: Alberta Enterprise and Advanced Education

There are occasions when it becomes apparent that a matter opened for investigation in our Office would be resolved in a more timely manner through the ACR process. The Ombudsman commenced an investigation into a complaint that the program now known as **Student Aid Alberta** had refused to backdate a loan certificate. A representative of the department telephoned the Ombudsman investigator to advise it is common practice to back date student loan certificates and the failure to back date this particular certificate was a simple error which could be resolved by re-issuing the loan certificate. The loan certificate was re-issued and the matter was concluded.

Case summary: Alberta Human Services

A worker complained an officer with the **Employment Standards Branch** was not living up to his commitment to keep the worker apprised of progress being made in an investigation of a claim for unpaid severance pay. As the result of the Ombudsman's ACR process, the officer emailed an update as well as information about the employer's response to the worker's claim. This information was instrumental in guiding the worker to next steps in the claim process.

INFORMAL RESOLUTION

Another process designed for timely resolution is the **Informal Resolution** (IR) process. IR is attempted with oral inquiries where the intake officer believes a caller's issues can be resolved through assistance from our Office. The intent is not to advocate for the position of the caller but to assist in communication to arrive at a timely resolution.

Case summary: Alberta Justice and Solicitor General

An inmate claimed he submitted two request forms to **correctional centre** staff requesting assistance in placing a telephone call to the court house hearing his case. He had one court order for bail from the Court of Queen's Bench and needed to speak with a Justice of the Peace about another bail application. Our intake officer spoke with the Director who agreed to provide a written response within the day.

Case summary: Patient Concerns, Alberta Health Services

At one time, **Patient Relations** for Alberta Health Services was the first step in having health care concerns in the provincial correctional system addressed. An inmate complained of a delay on the part of the Patient Relations department in sending him a letter outlining the results of his inquiry. Our intake officer spoke to the Patient Relations representative handling this matter who indicated a letter had been prepared. Initially the plan was to send the letter to the inmate's home address; however, at the suggestion of our intake officer, a copy of that letter was forwarded to the inmate in the provincial correctional centre in which he was placed. The Patient Relations representative confirmed the letter would provide information of the available review to the Patient Concerns Officer.

Case summary: Alberta Human Services

Our intake officer spoke with an **income support** supervisor about a person who applied for financial assistance to travel to a new job out of town. He needed the funds in three days, but had been unsuccessful in speaking to anyone about whether he would be receiving the funds. The income support supervisor agreed to review the progress of the application and a day before the new job started, the complainant called to say he had been updated on the status of his application and was satisfied with the progress being made.

Case summary: Maintenance Enforcement Program

A debtor's bank account and wages were garnisheed for well in excess of the amount that was owing to the **Maintenance Enforcement Program (MEP)**, which left him destitute. Our intake officer spoke with the Director of Collections and learned not all of the garnisheed funds had been received by MEP, but when they were they would be returned to the debtor. In the meantime, the Director arranged for a manager to call the debtor to explain what had transpired.

Case summary: Alberta Justice and Solicitor General

An individual who applied for a **private investigator license** understood that processing of such applications would take ten days. When he called to inquire about progress, he was referred to a complaint line; however, that telephone mailbox was full. Our intake officer spoke with the Registrar for Licensing who agreed to give the applicant a call and update him on the status of his application.

IN CONCLUSION

The Alberta Ombudsman continues to work with authorities to improve the administrative fairness of their processes. Their cooperation and willingness to rectify administrative unfairness found in Ombudsman investigations illustrates their commitment to the administratively fair delivery of services, programs and decisions to Albertans.

FINANCIAL STATEMENTS

FINANCIAL STATEMENTS

As at March 31, 2012

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AUDITOR GENERAL *Alberta*

Independent Auditor's Report

To the Members of the Legislative Assembly

Report on the Financial Statements
I have audited the accompanying financial statements of the Office of the Ombudsman, which comprise the statement of financial position as at March 31, 2012, and the statements of operations and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements
Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility
My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audits in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion
In my opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Ombudsman as at March 31, 2012, and the results of its operations and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

[Original signed by Merwan N. Saher]
FCA
Auditor General

Edmonton, Alberta
June 26, 2012

STATEMENT OF OPERATIONS
YEAR ENDED MARCH 31, 2012

	2012		2011
	Budget	Actual	Actual
Revenues			
Other Revenue	$ -	$ 428	$ 292
	-	428	292
Expenses - Directly Incurred (Note 2(b) and Schedule 2)			
Salaries, Wages and Employee Benefits	2,484,000	1,927,688	2,369,742
Supplies and Services	400,600	365,570	309,225
Amortization of Tangible Capital Assets	3,400	3,339	3,339
	$ 2,888,000	$ 2,296,597	$ 2,682,306
Net Operating Results	$ (2,888,000)	$ (2,296,169)	$ (2,682,014)

The accompanying notes and schedules are part of these financial statements.

STATEMENT OF FINANCIAL POSITION
AS AT MARCH 31, 2012

	2012	2011
ASSETS		
Cash	$ 400	$ 400
Accounts Receivable	-	215
Advances	3,300	5,800
Tangible Capital Assets *(Note 3)*	7,690	11,029
	$ 11,390	$ 17,444
LIABILITIES		
Accounts Payable and Accrued Liabilities	$ 66,666	$ 179,866
Accrued Vacation Pay	158,831	230,889
	225,497	410,755
NET LIABILITIES		
Net Liabilities at Beginning of Year	(393,311)	(305,246)
Net Operating Results	(2,296,169)	(2,682,014)
Net Financing Provided from General Revenues	2,475,373	2,593,949
Net Liabilities at End of Year	(214,107)	(393,311)
	$ 11,390	$ 17,444

The accompanying notes and schedules are part of these financial statements.

STATEMENT OF CASH FLOWS
YEAR ENDED MARCH 31, 2012

	2012	2011
Operating Transactions		
Net Operating Results	$ (2,296,169)	$ (2,682,014)
Non-cash items included in Net Operating Results		
Amortization of Tangible Capital Assets	3,339	3,339
Provision for Vacation Pay	(72,058)	15,874
	(2,364,888)	(2,662,801)
Decrease (Increase) in Accounts Receivable	215	880
Decrease (Increase) in Advances	2,500	500
(Decrease)/Increase in Accounts Payable and Accrued Liabilities	(113,200)	67,472
Cash Applied to Operating Transactions	(2,475,373)	(2,593,949)
Financing Transactions		
Net Financing Provided from General Revenues	2,475,373	2,593,949
Increase in Cash	-	-
Cash, Beginning of Year	400	400
Cash, End of Year	$ 400	$ 400

The accompanying notes and schedules are part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED MARCH 31, 2012

NOTE 1 - AUTHORITY AND PURPOSE

The Office of the Ombudsman (the Office) operates under the authority of the *Ombudsman Act*. The net cost of the operations of the Office is borne by the General Revenue Fund of the Province of Alberta. Annual operating budgets are approved by the Standing Committee on Legislative Offices.

The Office promotes fairness in public administration within the Government of Alberta, designated professional organizations and the patient concerns resolution process of Alberta Health Services.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES

These financial statements are prepared in accordance with Canadian public sector accounting standards.

a) Reporting Entity

The reporting entity is the Office of the Ombudsman which is a legislative office, for which the Alberta Ombudsman is responsible.

The Office operates within the General Revenue Fund. The Fund is administrated by the Minister of Finance. All cash receipts of the Office are deposited into the Fund and all cash disbursements made by the Office are paid from the Fund. Net Financing Provided from General Revenues is the difference between all cash receipts and all cash disbursements made.

b) Basis of Financial Reporting

Revenues

All revenues are reported on the accrual basis of accounting.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONTINUED)

b) Basis of Financial Reporting

Expenses

Directly Incurred

Directly incurred expenses are those costs the Office has primary responsibility and accountability for, as reflected in the Office's budget documents.

In addition to program operating expenses such as salaries, supplies,etc., directly incurred expenses also include:

- Amortization of tangible capital assets.
- Pension costs, which are the cost of employer contributions during the year.
- Valuation adjustments which represent the change in management's estimate of future payments arising from obligations relating to vacation pay.

Incurred by Others

Services contributed by other entities in support of the Office's operations are not recognized and are disclosed in Schedule 2.

Assets

Financial assets are assets that could be used to discharge existing liabilities or finance future operations and are not for consumption in the normal course of operations. Financial assets of the Office are limited to petty cash and employee travel advances.

Tangible capital assets of the Office are recorded at historical cost and are amortized on a straight-line basis over the estimated useful lives of the assets as follows:

Computer hardware and software	3 years
Furniture and office equipment	10 years

The threshold for capitalizing new systems development is $250,000 and the threshold for major system enhancements is $100,000. The threshold for all other tangible capital assets is $5,000.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONTINUED)

b) Basis of Financial Reporting

Liabilities

Liabilities are recorded to the extent that they represent present obligations as a result of events and transactions occurring prior to the end of fiscal year. The settlement of liabilities will result in sacrifice of economic benefits in the future.

Net Liabilities

Net liabilities represent the difference between the Office's liabilities and the carrying value of its assets.

Canadian public sector accounting standards require a "net debt" presentation for the statement of financial position in the summary financial statements of governments. Net debt presentation reports the difference between financial assets and liabilities as "net debt" or net financial assets" as an indicator of the future revenues required to pay for past transactions and events. The Office operates within the government reporting entity, and does not finance its expenditures by independently raising revenue. Accordingly, these financial statements do not report a net debt indicator.

Valuation of Financial Assets and Liabilities

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of cash, accounts receivable, advances, and accounts payable and accrued liabilities are estimated to approximate their carrying values because of the short term nature of these instruments.

NOTE 3 - TANGIBLE CAPITAL ASSETS

	2012			2011
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Computer hardware and software	$ 41,945	$ 41,945	$ -	$ -
Furniture and other office equipment	33,387	25,697	7,690	11,029
	$ 75,332	$ 67,642	$ 7,690	$ 11,029

NOTE 4 - CONTRACTUAL OBLIGATIONS

Contractual obligations are obligations of the Office to others that will become liabilities in the future when the terms of those contracts or agreements are met.

Estimated payment requirements for the unexpired terms of these contractual obligations are as follows:

2012-13	$ 4,176
2013-14	1,972
Total	$ 6,148

NOTE 5 - DEFINED BENEFIT PLANS (IN THOUSANDS)

The Office participates in the multi-employer Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multi-employer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of $181 for the year ended March 31, 2012 (2011 – $235).

At December 31, 2011, the Management Employees Pension Plan reported a deficiency of $517,726 (2010 deficiency $397,087) and the Public Service Pension Plan reported a deficiency of $1,790,383 (2010 deficiency $2,067,151). At December 31, 2011, the Supplementary Retirement Plan for Public Service Managers had a deficiency of $53,489 (2010 deficiency $39,559).

The Office also participates in the multi-employer Long Term Disability Income Continuance Plan. At March 31, 2011, the Management, Opted Out and Excluded Plan had an actuarial surplus of $10,454 (2011 surplus $7,020). The expense for this plan is limited to the employer's annual contributions for the year.

NOTE 6 - COMPARATIVE FIGURES

Certain 2011 figures have been reclassified to conform to the 2012 presentation.

NOTE 7 - APPROVAL OF FINANCIAL STATEMENTS

These financial statements were approved by the Ombudsman.

SCHEDULE 1: SALARY AND BENEFITS DISCLOSURE
YEAR ENDED MARCH 31, 2012

	2012				2011
	Base Salary[1]	Other Cash Benefits[2]	Other Non-Cash Benefits[3]	Total	Total
Senior officials					
Ombudsman[4] [5]	$ 197,127	$ 45,955	$ 32,557	$ 275,639	$ 283,493
Deputy Ombudsman[6]	$ 23,521	$ 4,375	$ 6,060	$ 33,956	$ 180,321

(1) *Base salary includes regular base pay.*

(2) *Other cash benefits include vacation payouts, vehicle allowances and lump sum payments.*

(3) *Other non-cash benefits include the employer's share of all employee benefits and contributions or payments made on behalf of employees including pension, health care, dental coverage, group life insurance, short and long-term disability plans, professional memberships and tuition fees.*

(4) *Automobile provided for Apr 1-May 4/11 and Mar 4-31/12, no dollar amount included in other non-cash benefits.*

(5) *This reflects 2 incumbents for the period (Apr 1-Aug 31/11 and Oct 18/11-Mar 31/12).*

(6) *The Deputy Ombudsman retired on May 31, 2011 and the position remained vacant as at March 31, 2012.*

SCHEDULE 2: ALLOCATED COSTS
YEAR ENDED MARCH 31, 2012

	2012				2011
		Expenses Incurred by Others			
Program	Expenses[1]	Accommodation Costs[2]	Telephone Costs[3]	Total Expenses	Total Expenses[4]
Operations	$ 2,296,597	$ 268,905	$ 12,765	$ 2,578,267	$ 2,947,107

(1) *Expenses - Directly Incurred as per Statement of Operations.*

(2) *Costs shown for Accommodation are allocated by square footage.*

(3) *Telephone Costs is the line charge for all phone numbers.*

(4) *Restated to include telephone costs for 2010-11.*

CONTACT INFORMATION

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